

**REMARKS**

The Office Action mailed July 16, 2003 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1, 3-18, and 20-21 are now pending in this application. Claims 1-14 and 21 stand rejected. Claims 15-20 stand objected to. Claims 2 and 19 have been canceled.

The objection to the drawings is respectfully traversed. More specifically, Figure 8 has been amended to correctly depict a bottom perspective view. In anticipation of approval of the drawing change, Applicants have submitted substitute drawings incorporating the above-noted changes. Accordingly, Applicants respectfully request that the objection to the drawings be withdrawn.

The rejection of Claims 1 and 3-5 under 35 U.S.C. § 102(b) as being anticipated by Fish et al. ("Fish")(U.S. Pat. No. 5,813,741) is respectfully traversed.

Fish describes a shelf assembly (22) that includes a support frame (42), a first pivotable shelf (44), and a second slidable shelf (46). The support frame includes first and second lateral support members (48 and 50), a central support bracket (52), a support member (54), and a cross brace (56). The first lateral support member includes a V-shaped projection (64) that includes a pair of notched openings (68). Notably, the second lateral support member includes a V-shaped projection (78) but does not include a pair of notched openings (68). The first shelf includes hinged members (70) that extend through the notched openings on the first lateral support members. Notably, the first shelf is not slidable. The second shelf includes stops (144) that engage the cross brace to limit movement of the shelf. Notably, the second and central support brackets are not configured to allow the stops to pass through a notched openings. Further, Fish does not describe or suggest a plurality of gussets extending inwardly from a plurality of side supports and a gusset extending upwardly from each of the gussets.

Claim 1 recites "a system for limiting outward movement of a slide-out shelf, said structure comprising a plurality of side supports configured to support the shelf, each said side support comprising a ledge comprising a clearance portion...a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf...a plurality of gussets extending

inwardly from each of said side supports...and a gusset tab extending upwardly from each of said gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf.”

Fish does not describe or suggest a system for limiting outward movement of a slide-out shelf, wherein the structure includes a plurality of side supports configured to support the shelf, wherein each of the side supports include a ledge including a clearance portion and a plurality of support members configured to rigidly connect the side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf, a plurality of gussets extending inwardly from each of the side supports, and a gusset tab extending upwardly from each of the gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf. Specifically, Fish does not describe or suggest a plurality of side supports including a plurality of gussets extending inwardly from each of the side supports, and a gusset tab extending upwardly from each of the gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf. Rather Fish describes a shelf with integral forward and rear stop tabs. For the reasons set forth above, Claim 1 is submitted to be patentable over Fish

Claims 3-5 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 3-5 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 3-5 likewise are patentable over Fish.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1 and 3-5 be withdrawn.

The rejection of Claims 1, 2, 6-14, and 21 under 35 U.S.C. § 103 as being unpatentable over Kolbe et al. (“Kolbe”)(U.S. Pat. No. 5,340,209) in view of Liang et al. (“Liang”)(U.S. Pat. No. 6,457,790) is respectfully traversed.

Kolbe describes a slide assembly (20) that includes a shelf structure (27) mounted on a pair of supports (23 and 24) in a refrigerated compartment (14). The shelf structure includes a shelf plate (33) that is encapsulated by a rim (34). A unitary latch member (44) interacts with the support (23) and the rim to facilitate shelf operation. During extension of the shelf, the latch engages a slot (66) in flange (40) of the rim. Notably, Kolbe does not describe a plurality of side supports including a plurality of gussets extending inwardly from each of the side supports, and a gusset tab extending upwardly from each of the gussets and

configured to contact a portion of the shelf thereby blocking further forward movement of the shelf.

Liang describes a shelving system including three separate members, an outer member (10), and intermediate member (20), and an inner member (30). The members may coaxially lengthwise slide one another. The intermediate member is slidably received in the outer member for supporting the inner member in a sliding relationship. A flexible strip (40) including opposite tabs (41a and 41b) extending **inwardly** for engaging the intermediate member. Notably, Liang does not describe a plurality of side supports including a plurality of gussets extending inwardly from each of the side supports, and a gusset tab extending **upwardly** from each of the gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Kolbe according to the teachings of Liang. More specifically, it is respectfully submitted that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants'

disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

Although it is asserted within the Office Action that Kolbe teaches the present invention except for disclosing a plurality of gussets and gusset tabs configured to contact a portion of the shelf to block further movement, and that Liang discloses a flexible strip for slide release, no motivation nor suggestion to combine the cited art has been shown. Since there is no teaching nor suggestion in the cited art for the claimed combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 1, 2, 6-14, and 21 be withdrawn.

Furthermore, Applicants respectfully submit that no motivation for the combination can be found within Kolbe and Liang, as Kolbe and Liang teach away from each other. Kolbe describes a slide assembly that includes a shelf structure mounted on a pair of supports in a refrigerated compartment. Specifically, Kolbe does not describe nor suggest a plurality of side supports including a plurality of gussets extending inwardly from each of the side supports, and a gusset tab extending upwardly from each of the gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf, but rather Kolbe describes a unitary latch member that interacts with the support and the rim to facilitate shelf operation.

In contrast, Liang describes a flexible strip for slide release in a shelving system. The intermediate member is slidably received in the outer member for supporting inner member in a sliding relationship. Additionally, Liang describes a flexible strip with flexible tabs that are configured to bend towards the flexible strip upon contact.

If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. More specifically, Applicants respectfully submit that Liang teaches away from Kolbe, and as such, there is no suggestion or motivation to combine Kolbe with Liang

Further, and to the extent understood, no combination of Kolbe and Liang, describes or suggests the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 1 recites “a system for limiting outward movement of a slide-out shelf, said structure comprising a plurality of side supports configured to support the shelf, each said side support comprising a ledge comprising a clearance portion...a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf...a plurality of gussets extending inwardly from each of said side supports...and a gusset tab extending upwardly from each of said gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf.”

None of Kolbe and Liang, alone or in combination, describe or suggest a system for limiting outward movement of a slide-out shelf, wherein the structure includes a plurality of side supports configured to support the shelf, wherein each of the side supports include a ledge including a clearance portion and a plurality of support members configured to rigidly connect the side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf, a plurality of gussets extending inwardly from each of the side supports, and a gusset tab extending upwardly from each of the gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf. None of Kolbe and Liang, alone or in combination, describe or suggest a plurality of gussets extending inwardly from each of the side supports, and a gusset tab extending upwardly from each of the gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Kolbe in view of Liang.

Claim 2 has been canceled. Claims 6-8 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 6-8 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 6-8 likewise are patentable over Kolbe in view of Liang.

Claim 9 recites “a method for assembling a shelf assembly, said method comprises providing a shelf including at least one forward tab and at least one rear tab extending outwardly from said shelf...providing at least one side support configured to support said shelf, including at least one side support clearance sized to receive said forward tab, at least one gusset extending inwardly from each said side supports, wherein the at least one gusset

includes a gusset tab extending upwardly, and at least one support member configured to rigidly connect said side supports...and slidably coupling the shelf to the side supports.”

None of Kolbe and Liang, alone or in combination, describe or suggest a method for assembling a shelf assembly, wherein the method includes providing a shelf including at least one forward tab and at least one rear tab extending outwardly from said shelf, providing at least one side support configured to support said shelf, including at least one side support clearance sized to receive said forward tab, at least one gusset extending inwardly from each said side supports, wherein the at least one gusset includes a gusset tab extending upwardly, and at least one support member configured to rigidly connect said side supports, and slidably coupling the shelf to the side supports. None of Kolbe and Liang, alone or in combination, describe or suggest a method including providing at least one side support configured to support said shelf, including at least one side support clearance sized to receive said forward tab, at least one gusset extending inwardly from each said side supports, wherein the at least one gusset includes a gusset tab extending upwardly, and at least one support member configured to rigidly connect said side supports. Accordingly, for at least the reasons set forth above, Claim 9 is submitted to be patentable over Kolbe in view of Liang.

Claims 10 and 11 depend, directly or indirectly, from independent Claim 9. When the recitations of Claims 10 and 11 are considered in combination with the recitations of Claim 9, Applicants submit that dependent Claims 10 and 11 likewise are patentable over Kolbe in view of Liang.

Claim 12 recites “a slide-out shelf assembly comprising a shelf...a first side, a forward tab laterally extending a first distance from said first side, and a rear tab laterally extending a second distance from said first side, said second distance less than said first distance...and a first shelf side support comprising a laterally projecting ledge for sliding engagement with said shelf first side, said side support further comprises a plurality of support members rigidly connecting said first shelf side support to a second shelf side support and configured to contact said forward tab when said shelf is in a first extended position, said projecting ledge comprising...a rear portion having a first width sufficient to retain said rear tab...and a forward portion having a second width less than said first width and providing a clearance for said rear tab and further providing a clearance for said forward tab, said clearance having a third width providing a clearance for said forward tab.”

None of Kolbe and Liang, alone or in combination, describe or suggest a slide-out

shelf assembly that includes a shelf, a first side, a forward tab laterally extending a first distance from the first side, and a rear tab laterally extending a second distance from the first side, wherein the second distance is less than the first distance, and a first shelf side support that includes a laterally projecting ledge for sliding engagement with the shelf first side, wherein the side support further includes a plurality of support members rigidly connecting the first shelf side support to a second shelf side support and is configured to contact the forward tab when the shelf is in a first extended position, the projecting ledge includes a rear portion having a first width sufficient to retain the rear tab and a forward portion having a second width less than the first width and providing a clearance for the rear tab and further providing a clearance for said forward tab. Specifically, none of Kolbe and Liang, alone or in combination, describe or suggest a slide-out shelf assembly that includes a shelf, a first side, a forward tab laterally extending a first distance from the first side, and a rear tab laterally extending a second distance from the first side, wherein the second distance is less than the first distance, and a first shelf side support that includes a laterally projecting ledge for sliding engagement with the shelf first side, wherein the side support further includes a plurality of support members rigidly connecting the first shelf side support to a second shelf side support and is configured to contact the forward tab when the shelf is in a first extended position, the projecting ledge includes a rear portion having a first width sufficient to retain the rear tab and a forward portion having a second width less than the first width and providing a clearance for the rear tab and further providing a clearance for said forward tab. Accordingly, for at least the reasons set forth above, Claim 12 is submitted to be patentable over Kolbe in view of Liang.

Claims 13, 14, and 21 depend, directly or indirectly, from independent Claim 12. When the recitations of Claims 13, 14, and 21 are considered in combination with the recitations of Claim 12, Applicants submit that dependent Claims 13, 14, and 21 likewise are patentable over Kolbe in view of Liang.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1, 6-14, and 21 be withdrawn.

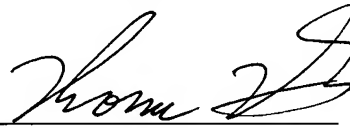
The objection to Claims 15-20 is respectfully traversed. Claims 15-20 were objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form. Claim 19 has been canceled. Claims 15-18 and 20 depend directly or indirectly from independent Claim 12 which is submitted to be in condition for

allowance. When the recitations of Claims 15-18 and 20 are considered in combination with the recitations of Claim 12, Applicants submit that dependent Claims 15-18 and 20 likewise are in condition for allowance.

For the reasons set forth above, Applicants request that the objection to Claims 15-18 and 20 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Thomas M. Fisher  
Registration No. 47,564  
ARMSTRONG TEASDALE LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102-2740  
(314) 621-5070